

REMARKS/ARGUMENTS

Art Rejections

Claims 1-84 were examined on their merits. Claim 1, 21, 23, 25, 43, 63, 65, and 67 have been amended to replace “behind” with “upstream of” to clarify the relative position of the inlet per the Examiner’s request. Therefore, claims 1-84 are currently pending in the present application.

1. Claims 1-19, 21-42, 43-61, 63-84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable by Voges, U.S. Patent No. 5,894,891 (“Voges”) and Stevens, U.S. Patent No. 1,105,934 (“Stevens”). These rejections are respectfully traversed for at least the following reasons. Claims 1, 21, 23, 25, 43, 63, 65, and 67 are all independent claims. Claims 2-19 ultimately depend from independent claim 1. Claim 22 depends from claim 21. Claim 24 depends from independent claims 23. Claims 26-42 ultimately depend from independent claim 25. Claims 44-62 ultimately depend from independent claim 43. Claims 64 depends from independent claim 63. Claims 66 depends from independent claim 65. Claims 68-84 ultimately depend from independent claim 67. Applicant respectfully traverses this rejection for at least the reasons stated below.

Independent Claims 1, 21, 23, 25, 43, 63, 65, and 67

Independent claims 1, 21, 23, 25, 43, 63, 65, and 67 recite the variation of the following limitation:

“a housing comprising an inlet and an outlet between which is formed an airflow path wherein the inlet is directly upstream of the reservoir and in which at least the ejection head is disposed in the air flow path downstream of the inlet and upstream from the outlet, wherein the housing provides for a substantially unobstructed airflow between the ejection head and the outlet when air traverses the airflow path from the inlet to the outlet.”

As to independent claims 1, 21, 23, 25, 43, 63, 65, and 67, Voges ('841) discloses a device (fig.2) that comprises a series of inlet (7) that are laterally position with respect to the reservoir (10) which differs in both the manner of airflow intake (i.e., how the intake air flows from the sides and not from the rear) and the location of the inlet with respect to the reservoir (10). Examiner admits that Voges fails to disclose the inlet being directly behind (upstream of) the reservoir and must rely on Stevens to compensate for the foregoing deficiencies of Voges.

Stevens is directed to an inhaler device having a detachable and interchangeable nose and mouth pieces. More specifically, Stevens describes the inhaler device of having means whereby the passage of air may be regulated by closing the orifice 5 with a plug 6. In doing so, the air must pass through a suitable absorbent material 31 for coming into contact and mixing with the air drawn through the inhaler via passages 3 and 5. Absent from Stevens, however, is any disclosure, teaching or suggestion for "a substantially unobstructed airflow between the ejection head and the outlet when air traverses the airflow path from the inlet to the outlet."

Modifying the housing of Voges to include the passage 3 and 5 as taught by Stevens would fail to provide any substantial air flow due to the obstruction of the controller, the protective cylindrical cartridge 21, and battery 17. Specifically, Voges teaches that "part 3 is closed or constricted at the end 9 remote from the mouthpiece 5." Voges avoids offering such alterations or alternative to add an opening near or at the end 9 remote from the mouthpiece 5. Such alteration would not only change the air flow dynamics not taught by Voges but would further cause adverse affects to downstream components (e.g., pressure sensor 19). Consequently, combining Voges with

Stevens fails to produce the claimed subject matter. The examiner is therefore respectfully requested to withdraw the § 103(a) rejection from independent claims and from the claims that depend therefrom.

2. Claim 20 and 62 stands rejected under 35 U.S.C. § 103(a) as being obvious and unpatentable over Voges in view of , U.S. Patent No. 1,105,934 (“Stevens”) and Gonzalez, U.S. Patent No. 455,614 (“Gonzalez”). Claim 20 depends from independent claim 1 and Claim 62 depends from independent claim 43 which Applicant has shown to be patentable over Voges in view of Stevens for at least the reasons stated above which are fully incorporated herein.

Because Voges is deficient with respect to claims 20 and 62 for at least the reasons stated above, the Examiner must rely on Stevens and Gonzalez to compensate for the foregoing deficiencies of Voges.

Gonzalez is directed to a smoking device for delivering an aerosolized compound. More specifically, Gonzalez describes a smoking device that contains an inlet (a), reservoir (a’) located beneath the inlet, a smoke passage (A’), and a sponge (B) acting as a filter that separates the inlet (a) and mouthpiece (e’). Absent from Gonzalez, however, is any disclosure, teaching or suggestion for a housing comprising an inlet and an outlet between which is formed an airflow path wherein the inlet is directly upstream of the reservoir and in which at least the ejection head is disposed in the air flow path downstream of the inlet and upstream from the outlet, wherein the housing provides for a substantially unobstructed airflow between the ejection head and the outlet when air traverses the airflow path from the inlet to the outlet as recited in independent claims 1, 21, 23, 25, 43, 63, 65, and 67.

Because there can be found in Gonzalez no teaching or suggestion that meets the above-identified limitations, the combination of Voges, Stevens and Gonzalez cannot reasonably be said to render obvious the claimed subject matter. The Examiner is therefore respectfully requested to withdraw the § 103(a) rejection from claims 20 and 62.

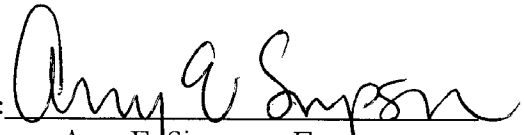
CONCLUSION

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

After the above Amendments, claims 1-84 are still pending in the application, of which claims 1, 21, 23, 25, 43, 63, 65, and 67 are independent claims. Thus, there are 84 total claims and 8 independent claims.

No fee is believed to be due with this submission but the Commissioner is hereby authorized to charge any additional fees which may be required, but not to include the payment of any issue fee, to Deposit Account No. 50-2613. (Order Number 38466.00008.UTL1.P1068).

Respectfully Submitted,

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Dated: July 3, 2006

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